THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Civil Writ Petition No. 399 of 2005 (S/S)

Smt. Kashi Devi Widow of late Himmat Singh,
R/o Village Thala, Post Talwari, District Chamoli.

---Petitioner.

Versus

1.Registrar Co-operative Society Uttaranchal, Dehradun.
2.District Assistant Registrar Co-Operative Society, Chamoli.
3.Talwari Sadan Sahkari Samiti Ltd. Talwari through its Secretary, Post-Talwari, District, Chamoli.

---Respondents

Sri Narayan Singh Negi, Advocate, learned counsel for the Petitioner
Learned Standing Counsel for the respondents.

Dated: April 12, 2005

PC:
(Hon'ble B.S. Verma, J.)

By means of this writ petition the petitioner has sought direction of this Court to the respondents to refund the amount of Rs. 56,362.77 with interest in compliance of order dated 24-8-1999 passed by Co-operative Tribunal, Lucknow (Annexure No.3 to the writ petition) with the allegation that the husband of the petitioner, Himmat Singh, was a salesman in the society-respondent no.3. There was no complaint against him regarding shortage of accounts in the shop. Said Himmat Singh was murdered on 29-11-1986. He was always sincere in his work and no shortage or irregularity was found against Himmat Singh. After about ten months from the date of death of Himmat Singh, the petitioner received a show cause notice dated 30-10-1987 from respondent no.3 for recovery of Rs. 17,499.07. On enquiry being made by the petitioner from respondent no.3 she came to know that the recovery referred to shortage in the account maintained by her late husband. The

petitioner submitted written objection before the Assistant Registrar/arbitrator, Co-operative Societies, U.P. Chamoli on 02-12-1988. The respondent no.2 without considering the objection of the petitioner passed the award dated 20-3-1998 holding that recovery of 22966.17 along with interest @ 14% per annum be made from the petitioner, as mentioned in the order. Aggrieved by the order dated 20-3-1995 passed by the respondent no.2, the petitioner filed an appeal before the Co-operative Tribunal, U.P. Lucknow under Section 98 of the U.P. Co-operative Societies Act 1965 on the ground that the award is against the provisions of the rules framed under the said Act. The learned Tribunal allowed the appeal vide order dated 24-8-1999 and set-aside the award dated 20-3-1995.

The grievance of the petitioner is that during the pendency of the appeal before the learned Tribunal, the respondent no.3 illegally and forcibly recovered sum of Rs. 56,362.77 on different dates and receipts. The petitioner served the copy of order dated 24-8-1999 passed by the learned Tribunal on the respondents no. 2& 3 with the request to refund the said amount to her. Despite the knowledge of the order dated 24-8-1999 and the reminders sent by the petitioner time and again, the respondent no.3 has not refunded the amount in question to the petitioner. Ultimately, on 01-6-1999 the petitioner sent reminder to the respondent no.3 (Annexure no.7) but no heed was paid to it. Hence the writ petition was filed.

In the course of argument, learned counsel for the petitioner submitted that the interest of justice will be served if a direction is issued to the respondent no.2-District Assistant Registrar Co-operative Society Chamoli to decide the representation dated 01-6-1999 (Ann. No.7) by a speaking order. The prayer is innocuous.

Accordingly, the respondent no.2 is directed to decide the representation of the petitioner (Annexure no.7 to the writ petition) within a period of two weeks from the date of receipt of certified copy of this order with a reasoned order.

With these directions, the writ petition is disposed of finally.

(B.S. Verma, J.)

A.R.